

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

|   |   |                     |
|---|---|---------------------|
| In the Matter of                              | ) |                     |
|   | ) |                     |
| Federal-State Joint Board on                  | ) | CC Docket No. 96-45 |
| Universal Service                             | ) |                     |
|   | ) |                     |
| Joint Board Request for Comment on            | ) |                     |
| Certain of the Commission's Rules Relating to | ) |                     |
| High-Cost Universal Service Support           | ) |                     |

**REPLY COMMENTS OF TDS TELECOMMUNICATIONS CORP.**

TDS Telecommunications Corp. (TDS Telecom) submits these reply comments to reiterate the company's support for preserving universal service mechanisms that effectively serve the goal of providing rural consumers with "access to telecommunications and information services . . . that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas."<sup>1</sup> Commenters advocating "reform" of the rural high-cost support mechanism focus almost exclusively on reducing the amount of support paid out of the Universal Service Fund and offer proposals that are inconsistent with the statutory requirement that the universal service program ensure specific, predictable, and sufficient support for service in rural, insular and high-costs areas.<sup>2</sup> TDS Telecom urges the Joint Board to reject these proposals and to recommend that the Commission (1) retain the existing definition of "rural telephone company" for universal service purposes, (2) continue to base rural high-cost support on study area embedded costs, and (3) promote rationality and competitive neutrality in the universal service program by ensuring

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<sup>1</sup> 47 U.S.C. § 254(b)(3).

<sup>2</sup> 47 U.S.C. § 254(b)(5).

that *all* carriers recovering support from the Fund provide truly universal service in their designated service areas and receive support based on their own costs of providing service.

**I. THE STATUTORY DEFINITION OF “RURAL TELEPHONE COMPANY” SHOULD CONTINUE TO BE USED FOR UNIVERSAL SERVICE**

Commenters have convincingly shown that the statutory definition of “rural telephone company”<sup>3</sup> remains the appropriate standard for determining whether carriers should recover universal support under the “rural” or “non-rural” mechanisms. Although the “rural telephone company” definition is not explicitly binding with respect to every aspect of the universal service program, Congress clearly intended that it would play a role in determining universal service support mechanisms.<sup>4</sup> Moreover, preserving the rural telephone company definition and allowing companies that serve a number of geographically diverse study areas to recover support at the operating company/study area level captures the different cost characteristics of diverse rural study areas and appropriately targets support to areas where it is needed.<sup>5</sup>

Commenters advocating a change in the definition of the carriers entitled to recover support under the “rural” high-cost mechanism have not demonstrated, beyond a few anecdotal (and sometimes erroneous) accounts,<sup>6</sup> that the existing definition has resulted in the

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<sup>3</sup> See 47 U.S.C. § 153(37).

<sup>4</sup> See 47 U.S.C. § 214(e)(5); *see also* Comments of TDS Telecommunications, CC Docket No. 96-45, at 15 (Oct. 15, 2004) (TDS Telecom Comments); Comments of ALLTEL Corp., CC Docket No. 96-45, at 4-5 (Oct. 15, 2004) (ALLTEL Comments); Comments of OPASTCO, CC Docket No. 96-45, at 3-4 (Oct. 15, 2004) (OPASTCO Comments).

<sup>5</sup> See Comments of United States Telecom Association, CC Docket No. 96-45, at 7 (Oct. 15, 2004) (USTA Comments). To the contrary, non-rural, price cap carriers who recover support on a statewide basis are free to use that support throughout the state, including in low-cost areas facing competition rather than in the high-cost areas where the support is most needed.

<sup>6</sup> See Comments of Sprint Corp., CC Docket No. 96-45, at 8-9 (Oct. 15, 2004).

systemic or substantial payment of support that was not justified or necessary to promote universal service in accordance with congressional objectives.

Verizon contends that mid-sized rural carriers should not recover support under the rural high-cost mechanism because they are more similar to “non-rural” carriers than to smaller rural carriers.<sup>7</sup> However, the data Verizon cites for this proposition do not support it. Verizon asks the Commission to treat holding companies with more than 100,000 lines per state as non-rural because such carriers are more like non-rural carriers than like smaller rural carriers. Verizon then cites statistics for carriers serving individual study areas with over 100,000 lines.<sup>8</sup> Verizon does not show that these larger study area carriers have characteristics (in terms of higher line density, higher share of revenue from business customers, etc.) that are similar to those of carriers serving a number of smaller study areas with aggregate access lines in excess of 100,000. The acid-test for universal service support, as set by Congress, should be the nature of the area served and not the aggregate number of lines.

More importantly, Verizon’s argument also fails to recognize two key differences between rural carrier holding companies and larger non-rural carriers. First, rural carriers owned by a holding company operate in diverse, often geographically separate, areas and may incur very high costs to serve each of those areas. Simply increasing the number of high-cost areas served does not reduce the costs of serving those areas.<sup>9</sup> Second, holding companies serving more than 100,000 aggregate access lines in a state still serve far fewer total lines than large non-

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<sup>7</sup> See, e.g., Comments of Verizon, CC Docket No. 96-45, at 8-14 (Oct. 15, 2004).

<sup>8</sup> See *id.* at 12.

<sup>9</sup> In Wisconsin, TDS Telecom’s operating company subsidiaries serve 19 study areas with aggregate access lines of 149,927. The largest of the study areas has 35,147 lines, with the smallest serving just 1,231 lines. As the attached Wisconsin exchange map shows, the TDS carriers operate in geographically separate areas in diverse circumstances.

rural carriers. Thus, rural holding companies lack the large subscriber and revenue bases that make it possible for non-rural carriers to absorb deficiencies in support that may occur under the non-rural forward-looking support mechanism. For example, even if a holding company's rural carriers serve, on average, 25% business customers, most of these may be small businesses, and the absolute number of businesses (and the revenue derived therefrom) are likely to be relatively low in comparison to non-rural carriers. For these reasons, rural carriers serving in excess of 100,000 access lines within a state, spread across a number of smaller study areas, are appropriately treated as "rural" for purposes of high-cost support.

## **II. A FORWARD-LOOKING COST MECHANISM WOULD NOT PROVIDE SUFFICIENT SUPPORT TO RURAL TELEPHONE COMPANIES**

In 2001, the Commission agreed with the Rural Task Force and concluded that there was not enough information to determine if and how to develop a forward-looking cost model appropriate for calculating rural high-cost support.<sup>10</sup> Commenters have offered no evidence to overcome the concerns identified by the Commission at that time. The circumstances facing individual rural carriers remain extremely diverse, and there is no indication in the record that a forward-looking cost model can be developed that would provide a sufficient level of support for each carrier, even using carrier-specific inputs.<sup>11</sup>

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<sup>10</sup> See Fourteenth Report and Order, Twenty-Second Order on Reconsideration, and Further Notice of Proposed Rulemaking, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, and Report and Order, *Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, CC Docket No. 00-256, 16 FCC Rcd 11,244 ¶ 177 (2001), as corrected by Errata, CC Docket Nos. 96-45, 00-256 (Acc. Pol. Div. rel. June 1, 2001) (*Rural Task Force Order*).

<sup>11</sup> To the extent that the Joint Board believes it is necessary and worthwhile to continue to explore the possibility of employing a forward-looking cost model to determine rural high-cost support, at a minimum the Joint Board should recommend that the Commission establish a new Rural Task Force to undertake a thorough examination of the many complex issues identified in the comments. Indeed, even a critic of the embedded

(continued...)

To the contrary, comments show that a risky experiment with a forward-looking rural cost model could cause substantial harm to rural carriers and consumers. For example, some carriers would suffer such a significant drop in support that they would be left without the resources necessary to maintain their carrier-of-last-resort networks, which are essential to public safety and homeland security.<sup>12</sup> Diminished or even uncertain support would also prevent rural carriers from investing in network infrastructure improvements that both ensure basic service levels comparable to those available in urban areas and facilitate access to advanced services in rural areas.<sup>13</sup> Finally, adopting a forward-looking cost model that reduces support to rural telephone companies could force carriers either to raise rural service rates significantly above those in urban areas or to substantially degrade service, in direct contravention of the Congressional goals for the universal service program.

Commenters supporting a forward-looking cost mechanism for rural carriers justify their support primarily on the basis of the savings that would accrue to the Universal Service Fund.<sup>14</sup> But arguments highlighting the potential savings to the Fund cannot overcome the substantial evidence that basing rural high-cost support on a forward-looking cost mechanism would substantially undermine the goals of the universal service program. The statute requires

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(continued...)

cost mechanism has acknowledged that a new Rural Task Force is necessary before instituting any fundamental reforms. *See* Comments of Nextel Partners, Inc., CC Docket No. 96-45, at 9-10 (Oct. 15, 2004).

<sup>12</sup> *See, e.g.*, Comments of the National Exchange Carrier Association, Inc., CC Docket No. 96-45, at 15 (Oct. 15, 2004).

<sup>13</sup> *See, e.g.*, OPASTCO Comments at 8. Deployment of advanced services in *all* communities across the nation is an important goal of Congress, the President, and the Commission. The universal service statute expressly contemplates that the universal service program will promote the provision of advanced services in rural areas. 47 U.S.C. § 254(b)(3).

<sup>14</sup> *See, e.g.*, Comments of CTIA-The Wireless Association, CC Docket No. 96-45, at 19-21 (Oct. 15, 2004); Comments of Dobson Cellular Systems, Inc., CC Docket No. at 3-4 (Oct. 15, 2004).

that the universal service program provide specific, sufficient, and predictable support to ensure that rural consumers have “access to [an evolving level of] telecommunications and information services . . . that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.”<sup>15</sup> The Joint Board should not recommend “reform” measures that would destroy the universal service envisioned by Congress.

### **III. RURAL HIGH-COST SUPPORT SHOULD CONTINUE TO BE CALCULATED AT THE STUDY AREA LEVEL**

In addition to retaining the embedded cost mechanism, the Joint Board should recommend that the costs used to determine rural high-cost support continue to be calculated at the study area level. Statewide averaging of costs for operating companies that happen to be held by holding companies would retard, rather than advance, the objectives of the universal service program. First, statewide averaging would deprive very high-cost areas of needed support merely because their local phone companies happen to be controlled by a holding company that also serves lower cost areas in the same state.<sup>16</sup> Second, averaging would reintroduce, at the state level, implicit subsidies that the Telecommunications Act of 1996 sought to eliminate.<sup>17</sup> Requiring holding companies to make up support deficiencies in higher-cost

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<sup>15</sup> 47 U.S.C. § 254(b)(3).

<sup>16</sup> See, e.g., Comments of CenturyTel, Inc., CC Docket No. 96-45, at 14-15 (Oct. 15, 2004); Comments of Home Telephone Company and PBT Telecom, CC Docket No. 96-45, at 6-7 (Oct. 15, 2004) (Home/PBT Comments).

<sup>17</sup> See, e.g., Comments of Independent Telephone and Telecommunications Alliance, CC Docket No. 96-45, at 20-21 (Oct. 15, 2004) (ITTA Comments).

areas by raising rates in lower cost areas would impose particularly unfair burdens on residents of metropolitan areas in predominantly rural states.<sup>18</sup>

Moreover, proponents of statewide averaging have not provided meaningful evidence supporting their principal argument – that holding companies with multiple study areas in a single state enjoy economies of scale. Rural carrier commenters have shown that such economies do not necessarily exist.<sup>19</sup> For example, TDS Telecom’s subsidiaries are generally geographically separated, with largely separate facilities and separate customer service and technical personnel.<sup>20</sup> Second, to the extent economies of scale do exist, they are already reflected in carriers’ costs under the embedded cost mechanism.<sup>21</sup> Thus, the existing embedded cost mechanism already ensures that any efficiencies enjoyed by operating companies that are part of a holding company are passed through to the Universal Service Fund. Accordingly, there is no reason to implement statewide averaging that presumes artificial economies of scale and results in insufficient support in contravention of the Communications Act.

#### **IV. RATIONALIZING SUPPORT FOR COMPETITIVE ELIGIBLE TELECOMMUNICATIONS CARRIERS REMAINS THE BEST APPROACH TO CONTROL THE GROWTH OF THE UNIVERSAL SERVICE FUND**

Many commenters agree that the best way to prevent excessive growth of the Universal Service Fund without undermining the goals of the program is to ensure that competitive eligible telecommunications carriers (CETCs) (1) are designated only where they

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<sup>18</sup> See, e.g., Comments of the Regulatory Commission of Alaska, CC Docket No. 96-45, at 18-19 (Oct. 15, 2004).

<sup>19</sup> See, e.g., ALLTEL Comments at 3-4; Comments of Fairpoint Communications, CC Docket No. 96-45, at 16-17 (Oct. 15, 2004) (Fairpoint Comments); USTA Comments at 8-9.

<sup>20</sup> See TDS Telecom Comments at 16-17.

<sup>21</sup> See, e.g., Fairpoint Comments at 16; Comments of Frontier and Citizens Incumbent Local Exchange Carriers, CC Docket No. 96-45, at 2 (Oct. 15, 2004).

fully serve the designated service area, and (2) receive support based on their own costs in serving the designated areas. Much of the support CETCs now receive does not advance the statutory objectives. The comments reveal that CETC support is often excessive, yet these carriers generally offer complementary service rather than expanding universal service or rural competition.<sup>22</sup> This overcompensation represents the single largest example of waste in the high-cost program.

Moreover, the current method of supporting CETCs based on the incumbent's costs impedes, rather than advances, the Commission's goal of competitive neutrality. It is not competitively neutral to require incumbent rural carriers to demonstrate their costs in order to recover universal service support while automatically paying support to CETCs that do not provide the same level of service, do not comply with state-imposed carrier-of-last resort and service quality obligations, and may not even incur high costs to serve the designated area.<sup>23</sup> Furthermore, the payment of excessive support to CETCs creates artificial incentives for entry where it is not economically rational<sup>24</sup> and distorts the market by giving CETCs an unfair advantage over incumbents.<sup>25</sup> Thus, the Joint Board would promote competitive neutrality and

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<sup>22</sup> See Comments of General Communication Inc., CC Docket No. 96-45, at 15-17 (Oct. 15, 2004). *See also* Memorandum Opinion & Order, *Applications of AT&T Wireless Services, Inc. and Cingular Wireless Corp. for Consent to Transfer Control of Licenses and Authorizations*, WT Docket No. 04-70, FCC 04-255, ¶ 247 (Oct. 26, 2004) (“[M]ost wireline customers do not now consider wireless service to be a close substitute for their primary line obtained from a wireline carrier. . . . In addition, . . . there remain qualitative differences between wireless and wireline services. We therefore consider it likely that many wireline customers will continue to perceive wireline service as necessary for at least some of their communications needs. . . .”)

<sup>23</sup> *See, e.g.*, OPASTCO Comments at 12-13; Comments of National Telecommunications Cooperative Association, CC Docket No. 96-45, at 8-9 (Oct. 15, 2004) (NTCA Comments).

<sup>24</sup> *See, e.g.*, Comments of Interstate Telecom Consulting, Inc., CC Docket No. 96-45, at 19-20 (Oct. 15, 2004); NTCA Comments at 8-9.

<sup>25</sup> *See, e.g.*, Comments of Fred Williamson & Associates, CC Docket No. 96-45, at 18 (Oct. 15, 2004); Comments of ICORE Companies, CC Docket No. 96-45, at 8 (Oct. 15, 2004); NTCA Comments at 7.



the efficient and judicious use of universal service funds by recommending that the Commission (1) adopt strict criteria for the designation of CETCs, and (2) develop a mechanism under which CETCs would recover support based on their own costs of serving rural, high-cost areas.

**V. THE JOINT BOARD SHOULD RECOMMEND LIFTING CAPS ON HIGH-COST SUPPORT**

TDS Telecom supports commenters that have argued for lifting the caps on high-cost support.<sup>26</sup> Although we share concerns about the growth of the Fund, we reiterate that those concerns must be addressed through mechanisms that do not undermine the statutory universal service goals. The caps on high-cost support do not pass this test. First, the caps are inconsistent with the statute. The statute requires that support be sufficient and predictable. It does not permit support to be capped at insufficient levels because the Fund size has increased. Second, the caps discourage infrastructure investment because carriers cannot justify such investments where they are uncertain if they will recover their costs.<sup>27</sup> This means that rural carriers may not be able to make infrastructure improvements necessary to provide service to rural subscribers that is comparable to that provided to subscribers in urban areas.

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<sup>26</sup> See, e.g., ITTA Comments at 29; Home/PBT Comments at 7; Comments of John Staurulakis, Inc., CC Docket No. 96-45, at 15 (Oct. 15, 2004).

<sup>27</sup> See, e.g., ITTA Comments at 29.

**CONCLUSION**

For the foregoing reasons, TDS Telecom urges the Joint Board to recommend that the Commission (1) retain the existing definition of "rural telephone company" for universal service purposes, (2) continue to base rural high-cost support on study area embedded costs, and (3) promote rationality and competitive neutrality in the universal service program by ensuring that *all* carriers recovering support from the Fund provide truly universal service in their designated service areas and receive support based on their own costs of providing service. The Joint Board should reject proposals that would deprive rural and high-cost areas of the specific, predictable, and sufficient support necessary to promote universal service to rural consumers.

Respectfully submitted,

TDS TELECOMMUNICATIONS CORP.

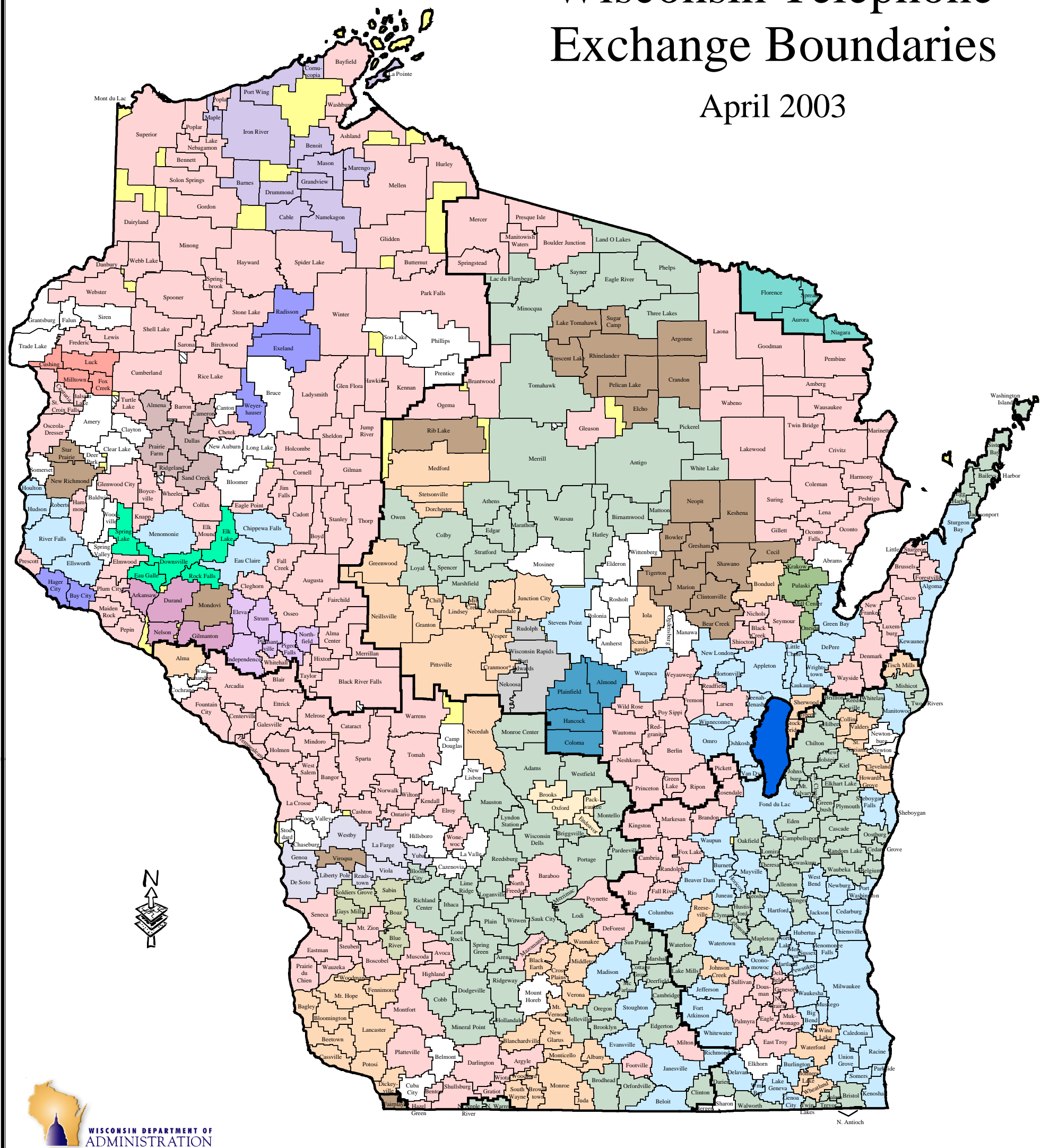
A handwritten signature in blue ink, appearing to read "Mary Newcomer Williams".

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# Wisconsin Telephone Exchange Boundaries

April 2003



## Holding Company, Independent Company, or Cooperative

- |  |                                      |                                   |
|--|--------------------------------------|-----------------------------------|
| Alliance Communications (5)            | Open Territory (50)                  | West Wisconsin Telecom Co-op. (5) |
| CenturyTel, Inc. (197)                 | Richland-Grant Telephone Co-op. (5)  | Wood County Telephone Co. (4)     |
| Chequamegon Telephone Co-op. (13)      | SBC WI (78)                          | LATA                              |
| Chibardun Telephone Co-op. (6)         | Telephone and Data Systems Inc. (59) | * Indicates a switcher area       |
| Citizens Communications Co. of WI (24) | Tri-County Telephone Co-op. (6)      |                                   |
| Lakeland Communications, Inc. (4)      | Unassigned Territory (74)            |                                   |
| Marquette-Adams Co-op. (4)             | Under 10,000 lines or < 3 exch (48)  |                                   |
| Nelson Telephone Co-op. (4)            | Union Telephone Company (4)          |                                   |
| Niagara Telephone Company (4)          | Verizon North, Inc. (118)            |                                   |
| Northeast Communications, Inc. (4)     | Vernon Telephone Co-op. (8)          |                                   |

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